

## **REMARKS**

Reconsideration of the present application is requested. Claims 12-14 were previously canceled and claims 9 and 22 have been canceled without prejudice or disclaimer by way of this response. Claims 1-8, 10, 11, 15-21 and 23-25 are currently pending. Of those, claims 1, 2 and 25 have been amended. Claim 1 is the sole independent claim.

### **ENTRY OF THIS AMENDMENT AFTER FINAL IS REQUESTED**

Applicants request entry of this Amendment after Final because no amendments made herein raise new issues requiring further consideration or search. Claim 1 has been amended to incorporate subject matter previously set forth in dependent claim 9, claim 2 has been amended to depend from claim 1 and claim 25 has been amended to depend from claim 1 instead of claim 9.

### **PRIOR ART REJECTIONS**

#### **REJECTION UNDER 35 U.S.C. §103**

The Examiner rejects claims 1 and 4-9 under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,505,966 ("Guru") and U.S. Patent No. 5,220,589 ("Gard"). This rejection is respectfully traversed.

#### **I. THE ABOVE REJECTION SHOULD BE WITHDRAWN BECAUSE THE EXAMINER HAS FAILED TO ESTABLISH A PRIMA FACIE CASE OF OBVIOUSNESS FOR REJECTING CLAIM 1.**

The above rejection should be withdrawn because the Examiner has failed to establish a *prima facie* case of obviousness for rejecting claim 1. To establish a *prima facie* case of obviousness, the prior art references when combined must teach or suggest all features of the claim. M.P.E.P. § 706.02(j).

In the present case, even assuming *arguendo* that Guru and Gard could be combined (which Applicants do not admit), the combination still fails to teach an evaluation device adapted to perform, "*initiating at least one measurement for production of raw data with the X-ray beam source switched off,*" and "*calculating, using the raw data, at least one value of a parameter describing a signal offset of the radiation detector and a further parameter for assessment of the data transmission path,*" as required by claim 1. Therefore, the rejection should be withdrawn because a *prima facie* case for rejecting claim 1 has not been established.

**A. A PRIMA FACIE CASE OF OBVIOUSNESS HAS NOT BEEN ESTABLISHED BECAUSE NEITHER GURU NOR GARD, TAKEN SINGLY OR IN COMBINATION, TEACH "INITIATING AT LEAST ONE MEASUREMENT FOR PRODUCTION OF RAW DATA WITH THE X-RAY BEAM SOURCE SWITCHED OFF," AS SET FORTH IN CLAIM 1.**

In Guru, the method of FIG. 5 requires "energizing of the x-ray source 16." Guru at col. 5, l. 10. Consequently, in Guru no measurements are initiated with the X-ray beam source switched off. Therefore, regardless of whether Guru and Gard could be combined (which Applicants continue to disagree with for at least the reasons set forth previously), measurements cannot be initiated with the X-ray beam source switch off because the method of Guru requires "energizing of the x-ray source 16."

**B. A PRIMA FACIE CASE OF OBVIOUSNESS HAS NOT BEEN ESTABLISHED BECAUSE NEITHER GURU NOR GARD, TAKEN SINGLY OR IN COMBINATION, TEACH "CALCULATING, USING THE RAW DATA, AT LEAST ONE VALUE OF A PARAMETER DESCRIBING A SIGNAL OFFSET OF THE RADIATION DETECTOR AND A FURTHER PARAMETER FOR ASSESSMENT OF THE DATA TRANSMISSION PATH," AS SET FORTH IN CLAIM 1.**

The Examiner relies upon FIG. 5 of Guru to allegedly teach calculating, "calculating, using the raw data, at least one value of a parameter describing a signal offset of the radiation detector and a further parameter for assessment of the data transmission path," as set forth in claim 1. Applicants disagree.

As discussed above, even assuming *arguendo* that Guru could be combined with Gard, the combination still fails to teach at least "initiating at least one measurement for production of raw data with the X-ray beam source switched off," because Guru requires "energizing of the x-ray source 16." Guru at col. 5, l. 10. Absent any teaching of the "raw data," of claim 1, the combination of Guru and Gard (assuming *arguendo* the combination could be made), also fails to teach or suggest "calculating, using the raw data, at least one value of a parameter describing a signal offset of the radiation detector and a further parameter for assessment of the data transmission path," as set forth in claim 1. For at least this reason, the rejection should be withdrawn.

**C. A PRIMA FACIE CASE RENDERING CLAIM 1 OBVIOUS HAS NOT BEEN ESTABLISHED BECAUSE GARD TEACHES AWAY FROM GURU.**

According to Gard, carrying out an automatic assessment of radiation detector quality when collecting data for compensating offset errors with the x-ray beam switched off is disadvantageous. Gard at col. 2, ll. 1-6. Aside from this teaching, Gard explicitly and exclusively refers to the correction of gain errors, but makes no teaching or suggestion that it would be advantageous nor desirable to calculate an additional or "further parameter," for assessment of the data transmission path, as required by claim 1. Therefore, one of ordinary skill in the relevant art having knowledge of both Guru and Gard would not

have been motivated to calculate a parameter describing a signal offset of the radiation detector and a further parameter for assessment of the data transmission path using raw data which has been measured with x-ray beam source switched off. For at least the foregoing reasons, the rejection of claim 1 should be withdrawn. The rejection of claims 4-9 should also be withdrawn for at least somewhat similar reasons.

#### **FURTHER PRIOR ART REJECTIONS UNDER 35 U.S.C. § 103(A)**

The Examiner rejects claims 10, 17 and 25 over Guru, Gard and U.S. Patent No. 5, 786994 ("Friz"); claim 11 over Guru, Gard and U.S. Patent No. 6,327330 ("Peter"); claims 2, 15-16, 18-23 over Guru and Friz; and claims 3 and 24 over Guru, Friz and Peter. This rejection is respectfully traversed in that even assuming *arguendo* that Guru, Gard, Friz and/or Peter could be combined (which Applicants do not admit), Friz and Peter suffer from the same deficiencies as Guru and Gard with respect to claim 1. Therefore, the combination of Guru, Gard, Friz and/or Peter still fails to teach all features of claims 2, 3, 10, 11 and 15-25. For at least these reasons, the rejection should be withdrawn.

#### **CONCLUSION**

In view of above remarks, reconsideration of the outstanding rejection and allowance of the pending claims is respectfully requested.

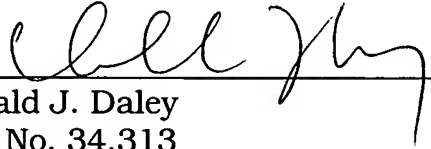
If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Andrew M. Waxman, Reg. No. 56,007, at the number of the undersigned listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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